THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 8822 of 2007

Oral order:

The petitioner, who retired from the service of the respondents-APSRTC as Helper, has filed this writ petition to declare the action of the respondents in not paying salary to him for the period from 01.08.1998 to 11.11.1999, as illegal and arbitrary, and consequently direct the respondents to pay salary for the said period along with admissible interest thereon.

The petitioner states that during his course of employment with the respondents-APSRTC he met with an accident on 31.07.1998. Initially he was treated at the APSRTC Dispensary. Later on, he was referred to NIMS, Hyderabad, where he was under treatment, for 15 months from 01.08.1998 to 11.11.1999. Upon recovery, he reported to duty, and continued in employment till 14.06.2005, when he was retired on medical grounds. Now aggrieved by the action of the respondents in not paying salary for the period from 01.08.1998 to 11.11.1999, he filed the present writ petition.

The learned counsel for the petitioner submits that having regard to the provisions of the APSRTC (Leave) Regulations, Medical Attendance Regulations, 1963, Pay and Allowance Regulations, 1964 read with the APSRTC Employees Service Regulations, 1964, the petitioner having suffered injury while on duty, and he having taken treatment for the said injury from 01.08.1998 to 11.11.1999, is entitled to salary for the period, and the action of the respondents in not paying him salary for the said period despite making several representations, is illegal and arbitrary.

The respondents-APSRTC filed detailed counter-affidavit. The

learned Standing Counsel for the respondents reiterating the counter averments submitted that as per the records available with the, no accident took place on 31.07.1998. In fact, the petitioner has not submitted any representation stating that he suffered injury while on duty. However, the records available with them disclose that the petitioner has taken treatment at APSRTC Hospital, Tarnaka/NIMS, Hyderabad from 01.08.1998 to 10.11.1999, and he was sanctioned medical aid for the said treatment. It is stated that if the petitioner had suffered injury while on duty, he should have brought the same to the notice of the authority concerned, which he did not do, and had he brought the same to the notice of the authority concerned, necessary enquiry would have been conducted and decided whether the petitioner is eligible for hospital leave as per the Regulations. Hence, she prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

Though the petitioner states that he suffered injury on 31.07.1998 while on duty with the respondents-APSRTC, and that he is entitled to salary for the period from 01.08.1998 to 10.11.1999, during which period he claims to have taken treatment at APSRTC Dispensary and NIMS, Hyderabad, the fact remains, the respondents in their counter, have contended that the records available with them do not disclose any accident having taken place on 31.07.1998, much less involving the petitioner. It is their further case that if any employee suffers injury while on duty, the same should be brought to the notice of the authority concerned, who will conduct an enquiry and decide whether the employee is entitled to hospital leave, which in the instant case did not take place.

The petitioner to support his argument that the respondents

themselves have referred him to the hospital, though has filed xerox copy of the accident report, but a perusal of the same would disclose that it neither contains the reference number nor the date nor the signature of the Depot Manager, though the Medical Certificate, appended thereto, is certified by a Civil Surgeon, Community Health Centre, Nirmal.

The petitioner except stating that he made representations requesting the respondents to pay him salary for the period from 01.08.1998 to 10.11.1999, has not filed any material to show that he has made any such representations, and though he filed xerox copy of one representation, the same does not contain the date, he has not even filed any acknowledgment, showing its acknowledgment by the respondents. And on the other hand, it is the specific case of the respondents that no such representations are made, and that the petitioner has approached the Court directly.

In the absence of any material filed by the petitioner showing that he suffered injury while on duty, and without the petitioner approaching the respondents seeking the relief claimed in the writ petition, no direction can be given to the respondents to pay salary to the petitioner for the period during which he claims to have taken treatment for the injury suffered by him while on duty.

Hence, the writ petition is dismissed. If the petitioner intends to make any representation along with relevant material to the authority concerned seeking salary for the period he was under treatment, the authority concerned shall conduct an enquiry into whether the petitioner met with any accident while on duty, and pass appropriate orders on the representation, within a period of three months from the date of receipt of a copy of this order. No costs.

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N.V. RAMANA, J.

Date: 24th October, 2007
KSR